

## Wage and Hour Division, Labor

## § 505.5

(c) All professional performers and related or supporting professional personnel (other than laborers or mechanics with respect to whom labor standards are prescribed in section 5(j) and 7(j) of the Act) employed on projects or productions which are financed in whole or in part under section 5 or section 7 of the Act will be paid, without subsequent deduction or rebate on any account, not less than the prevailing minimum compensation determined in accordance with paragraph (a) of this section, unless an alternative determination is made under paragraph (b) of this section. Pending the decision of the Administrator on a request for determination under paragraph (b) of this section, the grantee may be required to set aside in a separate escrow account sufficient funds to satisfy the difference between the compensation (including fringe benefits) actually paid to the employee(s) in question, and the compensation (including fringe benefits) required under the applicable collective bargaining agreement negotiated by the labor organization named in paragraph (a) of this section, or furnish a bond with a surety or sureties satisfactory to the Administrator for the protection of the compensation of the affected employees.

### § 505.4 Receipt of grant funds.

(a) The grantee shall not receive funds authorized by section 5 or section 7 of the Act until adequate initial assurances have been filed with the Chairperson of the National Endowment for the Arts or the Chairperson of the National Endowment for the Humanities, pursuant to sections 5(i) (1) and (2) and sections 7(g) (1) and (2) of the Act as provided in § 505.5(a), that all professional performers and related or supporting professional personnel will be paid not less than the prevailing minimum compensation and that the safety and health requirements will be complied with. Neither shall the grantee receive any such funds if and after the Chairperson of the National Endowment for the Arts or Chairperson of the National Endowment for the Humanities is advised by the Secretary that continuing assurances as provided in § 505.5(b) are inadequate or that labor standards con-

templated by sections 5(i) (1) and (2) or sections 7(g) (1) and (2) of the Act have not been observed.

(b) In order to facilitate such assurances so that the grantee may receive the grant funds promptly, the Chairpersons of the National Endowment for the Arts and the National Endowment for the Humanities will transmit with the grant letter, to each grantee of a grant that will provide assistance to projects or productions employing professional performers or related or supporting professional personnel under section 5 or section 7 of the Act, a copy of these regulations together with two copies of the assurance form (Form No. ESA-38). The Chairperson will advise the grantee that before the grant may be received, the grantee must give assurances that all professional performers and related or supporting professional personnel (other than laborers or mechanics with respect to whom labor standards are prescribed in section 5(j) and section 7(j) of the Act), will be paid, without subsequent deduction or rebate on any account not less than the minimum compensation determined in accordance with § 505.3 (a) or (b) and that the safety and health requirements under § 505.6 will be met. The Chairpersons will maintain on file in Washington, DC, for a period of three (3) years and make available upon request of the Secretary the original signed Form ESA-38 and a copy of the grant letter together with any supplementary documents needed to give a description of the project or production to be financed in whole or in part under the grant.

### § 505.5 Adequate assurances.

(a) *Initial assurances.* The grantee shall give adequate initial assurances that not less than the prevailing minimum compensation determined in accordance with § 505.3 will be paid to all professional performers and related or supporting professional personnel, and that no part of the project or production will be performed under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees, by executing and filing with the Chairperson of the National Endowment for the Arts or the Chairperson of the National